

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

|                          |   |                           |
|--------------------------|---|---------------------------|
| Billie Jolene Fleck,     | ) | Case No. 2:23-cv-3971-RMG |
|                          | ) |                           |
| Plaintiff,               | ) |                           |
|                          | ) | <b>ORDER AND OPINION</b>  |
| v.                       | ) |                           |
|                          | ) |                           |
| Detective J. Ballentine, | ) |                           |
|                          | ) |                           |
| Defendant.               | ) |                           |
|                          | ) |                           |

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This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 8) recommending that the Court dismiss the instant action for lack of jurisdiction and/or failure to comply with a court order pursuant to FRCP 41. Simply put, the complaint alleges that Defendant obtained a search warrant for Plaintiff’s phone while investigating non-party Marlin E. Coffy, Plaintiff’s stepfather. (Dkt. No. 8 at 1). The complaint alleges the search violated Plaintiff’s right to privacy under the Fourth Amendment because the phone contained explicit, sensitive images of Plaintiff and her partner. (*Id.*). Upon reviewing the case, the Magistrate Judge determined that Coffy himself, not Plaintiff Fleck, had filed the instant action. (Dkt. No. 1-1) (complaint envelope with return address of “Marlin E. Coffy # 9268, 300 California Ave CPOD/C2, Moncks Corner, SC 29461”); (Dkt. No. 8 at 2 n.2) (noting handwriting bore stark resemblance to separate action filed by Coffy). Because Coffy does not appear to be an attorney, the Court issued a proper form order warning Plaintiff that to the extent she sought to bring claims against Defendant, she needed to do so on her own behalf. (Dkt. No. 5). Plaintiff was warned that failure to bring her case into proper form would result in a dismissal. *See (id.)*. To date, Plaintiff has not personally completed the requisite filings. Accordingly, the Court **ADOPTS** the R&R as the order of the Court and **DISMISSES** this action without prejudice. *See Umstead v.*

*Chase Manhattan Mortg. Corp.*, No. 7:04-cv-747, 2005 WL 2233554, at \*2 (W.D. Va. Sept. 13, 2005) (“It follows from the rule prohibiting lay representation that any pleadings filed through lay representation must be disregarded as a nullity.”). The pending motion to proceed in forma pauperis (Dkt. No. 2) is **DENIED** as moot.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
United States District Judge

February 20, 2024  
Charleston, South Carolina